

MEMORANDUM

Agenda Item No. 7(H)

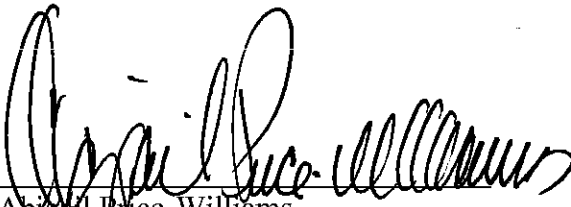
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: (Second Reading 12-3-19)
October 3, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to infectious disease; creating Article IX of chapter 2 of the Code; authorizing the operation of a sterile needle and hypodermic syringe exchange program; providing for applicability in both the incorporated and unincorporated areas of the County; providing definitions; directing the County Mayor to complete certain requirements prior to a specified date; providing criteria for program operator; requiring certain program, security and reporting requirements

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman, and Co-Sponsors Chairwoman Audrey M. Edmonson, Commissioner Eileen Higgins, Commissioner Barbara J. Jordan, Senator Javier D. Souto and Commissioner Xavier L. Suarez.


Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: December 3, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Fiscal Impact Statement for Ordinance Relating to Infectious Disease

The proposed ordinance will not have a fiscal impact to Miami-Dade County as Section 2-84 prohibits 'state, county and municipal funds' from being used to operate the exchange program.

A handwritten signature in black ink, appearing to read "Jennifer Moon".

Jennifer Moon
Deputy Mayor

FIS01220 192321

Memorandum



Date: December 3, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Social Equity Statement for Ordinance Relating to Infectious Disease

The University of Miami (UM) currently has a 5-year pilot program titled IDEA Exchange that has shown many successes and achievements. The continuation of an exchange program would be beneficial as the programs have been correlated with decreases in overdose deaths, decreases in new HIV infections and decreases in related health care costs.

The exchange program is non-discriminative as all races, ethnicities, genders, education levels, incomes, etc. would be served and, although demographics would be collected, no client identifying information is collected. All communities can benefit if the mobile unit is utilized. Also, the program Operator works with the Florida Department of Health to ensure education, testing and counseling opportunities are provided to the all communities within Miami-Dade County.

A handwritten signature in black ink, appearing to read "Jennifer Moon", written over a horizontal line.

Jennifer Moon
Deputy Mayor

FIS01220 192321



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 3, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(H)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(H)
12-3-19

ORDINANCE NO. _____

ORDINANCE RELATING TO INFECTIOUS DISEASE;
CREATING ARTICLE IX OF CHAPTER 2 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING THE
OPERATION OF A STERILE NEEDLE AND HYPODERMIC
SYRINGE EXCHANGE PROGRAM; PROVIDING FOR
APPLICABILITY IN BOTH THE INCORPORATED AND
UNINCORPORATED AREAS OF THE COUNTY; PROVIDING
DEFINITIONS; DIRECTING THE COUNTY MAYOR OR
COUNTY MAYOR'S DESIGNEE TO COMPLETE CERTAIN
REQUIREMENTS PRIOR TO A SPECIFIED DATE;
PROVIDING CRITERIA FOR PROGRAM OPERATOR;
REQUIRING CERTAIN PROGRAM, SECURITY AND
REPORTING REQUIREMENTS; AND PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

WHEREAS, needle and syringe programs are harm reduction social service initiatives that provide intravenous drug users with sterile needles and syringes to reduce the transmission of the human immunodeficiency virus ("HIV"), hepatitis, and other blood borne viruses; and

WHEREAS, needle exchange programs have been correlated with decreases in overdose deaths, decreases in new cases of HIV infections among intravenous drug users, and decreases in related health care costs; and

WHEREAS, additionally, participants in needle exchange programs are usually offered immunizations, testing for infectious diseases, and treatment options, which have shown to result in increased chances of recovery from substance addictions; and

WHEREAS, this Board has supported efforts to authorize a needle exchange program in Miami-Dade County; and

WHEREAS, on November 3, 2015, this Board adopted Resolution No. R-1016-15, which, among other things, urged the Florida Legislature to create a multi-year pilot program in Miami-Dade County to provide a needle and syringe exchange program; and

WHEREAS, during the 2016 Legislative Session, in an effort to combat the significant HIV, hepatitis C and other blood-borne diseases' infection rates in the County, among other public health and policy considerations, the Florida Legislature enacted the Miami-Dade Infectious Disease Elimination Act ("IDEA"), Chapter 2016-068, Laws of Florida (Senate Bill 242), which amended section 381.0038, Florida Statutes; and

WHEREAS, among other things, IDEA authorized the University of Miami to create a 5-year pilot program ("IDEA Exchange") in Miami-Dade County; and

WHEREAS, IDEA Exchange provides (i) free exchange of unused needles and syringes for used needles as a means of preventing the transmission of HIV, Acquired Immune Deficiency Syndrome ("AIDS"), hepatitis, and other blood-borne diseases among intravenous drug users, their sexual partners and offspring, (ii) access to Narcan, a medication that blocks the effects of opioids and reverses overdoses, and (iii) HIV and hepatitis C blood tests and treatment; and

WHEREAS, due to IDEA Exchange's early successes and achievements, this Board adopted Resolution Nos. R-885-17 and R-929-18, on October 3, 2017, and September 5, 2018, respectively, and urged the Florida Legislature to authorize additional institutions to collaborate with the University of Miami in the operation of IDEA Exchange; and

WHEREAS, during the 2019 legislative session, the Florida Legislature enacted Chapter 2019-143, Laws of Florida (Senate Bill 366), which further amended section 381.0038, Florida Statutes, and among other things,

- (1) directed the Department of Health to establish a program to educate the public about the threat of AIDS;
- (2) authorized county commissions to approve the operation of a sterile needle and syringe exchange program within each county's boundaries by ordinance; and
- (3) provided components that counties would need to satisfy to establish a needle exchange program; and

WHEREAS, additionally, section 381.0038, as amended, recognizes IDEA Exchange and authorizes its continued operation until this Board establishes an exchange program in accordance with the provisions therein or July 21, 2021, whichever occurs first; and

WHEREAS, this Board recognizes and appreciates the great success achieved by the University of Miami through IDEA Exchange and, pursuant to section 381.0038, Florida Statutes, wishes to establish criteria for the creation of a needle exchange program,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article IX of Chapter 2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

ARTICLE IX. – MIAMI-DADE COUNTY STERILE NEEDLE AND SYRINGE EXCHANGE PROGRAM

Sec. 2-78. - Creation and Purpose.

Pursuant to the requirements of the Infectious Disease Elimination Act, section 381.0038(4), as such may be amended from time to time, ("Infectious Disease Elimination Act"), there is hereby created and authorized in Miami-Dade County a needle and hypodermic

syringe exchange program. The purpose of the program is to offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users, their sexual partners, and offspring.

Sec. 2-79. – Applicability.

This article shall be applicable in both the unincorporated and incorporated areas of the County.

Sec. 2-80. – Definitions.

As used in this article, the following definitions shall apply:

1. “Board” shall mean the Miami-Dade County Board of County Commissioners.
2. “Exchange program” shall mean a sterile needle and hypodermic syringe exchange program authorized by the Board and operated pursuant to the requirements established in the Infectious Disease Elimination Act and in accordance with the terms and conditions of the operator’s contract.
3. “Operator” shall mean the provider contracted to operate the exchange program.

Sec. 2-81. – Authorization for an Exchange Program.

1. Pursuant to the requirements of the Infectious Disease Elimination Act, an exchange program (the “Needle Exchange Program”) is authorized to operate in the geographic boundaries of the County.
2. The Needle Exchange Program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes, with the primary goal of preventing the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring, and with the secondary goal of providing a bridge to drug treatment, recovery support and other social services for intravenous drug users.

3. The Needle Exchange Program may operate at one or more fixed locations or through mobile health units.
4. With the exception of the sterile needle and syringe exchange pilot program operated by the University of Miami, no needle and syringe exchange program shall be authorized to operate in the County through June 30, 2021. After June 30, 2021, it shall be unlawful to operate a Needle Exchange in the County unless the operator is under contract with the Board, pursuant to the express requirements of the Infectious Disease Elimination Act.

Sec. 2-81.1. – Conditions Precedent to Establishing the Needle Exchange Program.

Pursuant to the Infectious Disease Elimination Act, the County Mayor or County Mayor's designee is directed to complete the following requirements, subject to Board approval, no later than July 1, 2021:

1. Establish a letter of agreement with the Florida Department of Health in which the Board agrees that the Needle Exchange Program will operate in accordance with the requirements of the Infectious Disease Elimination Act;
2. Enlist the Miami-Dade County Health Department to provide ongoing advice, consultation, and recommendations for the operation of the Needle Exchange Program;
3. Establish and approve the operator's contract pursuant to the requirements herein; and
4. Develop an oversight and accountability system for the Needle Exchange Program.

Sec. 2-82. – Approval of Operator.

1. The Board shall approve an operator for the Needle Exchange Program. Pursuant to the Infectious Disease Elimination Act, said operator must be one of the following entities:
 - (a) A hospital licensed pursuant to chapter 395;
 - (b) A health care clinic licensed pursuant to part X of chapter 400;

- (c) A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation;
 - (d) A licensed addictions receiving facility as defined in section 397.311(26)(a), Florida Statutes; or
 - (e) A 501(c)3 HIV/AIDS service organization.
2. The operator shall contract with the Board to provide the services authorized by this article, which shall be incorporated into the operator's contract. The operator's contract shall include provisions establishing each of the following:
- (a) An oversight and accountability system to ensure compliance with the requirements of the Infectious Disease Elimination Act, and the obligations and requirements the Board included in the operator's contract;
 - (b) Measurable objectives to assess the effectiveness of the oversight and accountability system in achieving the Needle Exchange Program's goals and objectives;
 - (c) Periodic tracking, at a minimum annually, of the Needle Exchange Program goals and objectives, progress in achieving those goals and objectives, and operator's compliance or noncompliance with the oversight and accountability system;
 - (d) Specific consequences and remedies for noncompliance with the oversight and accountability system; and
 - (e) Requirements to comply with all state statutes and Florida Administrative Code regulations, whether now existing or hereafter promulgated, concerning section 381.0038, as such may be amended from time to time, and to comply with all local laws and regulations concerning zoning, licensing, fire safety, and any other local requirements pertaining to operation of the Needle Exchange Program, whether now existing or hereafter promulgated.

Sec. 2-82.1. – Security of Sites and Equipment.

The operator shall provide for maximum security of sites where needles and syringes are exchanged and of any equipment used under the Needle Exchange Program and shall establish written security procedures. These security procedures shall be included in the operator's training and on-boarding process for all contractors, employees, and volunteers assisting with the Needle Exchange Program. At a minimum, maximum security procedures shall include:

1. An accounting of the number of needles and syringes in use;
2. The number of needles and syringes in storage;
3. Safe disposal of returned needles; and
4. Any other measure that may be required to control the use and dispersal of sterile needles and syringes.

Sec. 2-83. – Needle Exchange Program Operations.

1. The Needle Exchange Program authorized pursuant to this article shall operate on a one-to-one exchange basis, whereby a Needle Exchange Program participant shall receive one sterile needle and syringe unit in exchange for each used one.
2. Whenever needles or syringes are exchanged, the Needle Exchange Program shall offer educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases.
3. The operator shall provide onsite counseling or referrals for drug abuse prevention, education, treatment, and recovery support services and provide onsite HIV and viral hepatitis screening or referrals for such screening. If such services are offered solely by referral, they must be made available to participants within 72 hours of referral.
4. The operator shall also support and facilitate, to the maximum extent practicable, linkages to health care and mental health services for participants.

5. The operator shall provide kits containing an emergency opioid antagonist, as defined in section 381.887, Florida Statutes, or provide referrals to a program that can provide such kits.

Sec. 2-83.1. – Data and Reporting Requirements for the Needle Exchange Program.

1. The Needle Exchange Program shall prepare an annual report to the Board and Florida Department of Health. Said report shall be submitted no later than August 1 annually, commencing on August 1, 2020 and continuing each August 1 thereafter. The Needle Exchange Program shall collect and monitor, at a minimum, the following data elements to be included in the annual report:
 - (a) The number of participants served;
 - (b) The number of used needles and syringes received and the number of clean, unused needles and syringes distributed through exchange with participants;
 - (c) The number of participants entering drug counseling and treatment, recovery support, and other social services;
 - (d) The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases;
 - (e) Any other data collection methods and outcome measurements that may be required under Florida Department of Health rule or the operator's contract; and
 - (f) The demographic profiles of the participants served.
2. The personal identifying information of a Needle Exchange Program participant shall not be collected for any purpose.

Sec. 2-83.2. – Lawful Participation in Needle Exchange Program.

1. The possession, distribution, or exchange of needles or syringes as part of the Needle Exchange Program established by the Board pursuant to the Infectious Disease Elimination Act, is not a violation of any part of chapter 893, Florida Statutes, or any other law.
2. However, a Needle Exchange Program staff member, volunteer, or participant is not immune from criminal prosecution for:
 - (a) The possession of needles and syringes that are not a part of the Needle Exchange Program; or
 - (b) The redistribution of needles or syringes in any form, if acting outside the Needle Exchange Program.

Sec. 2-84. – State, County, and Municipal Funding Prohibited.

State, county, and municipal funds cannot be used to operate the Needle Exchange Program. The operator will be required to fund Needle Exchange Program operations through grants and donations from private resources and funds.

Section 2. The County Mayor or County Mayor's designee is directed to complete the requirements of section 2-81.1 no later than July 1, 2021. Upon completion of such requirements, the County Mayor or County Mayor's designee shall transmit a report to the Board of County Commissioners, which shall include all documents produced and detail measures taken to comply with section 2-8.1. The County Mayor or County Mayor's designee shall place such report on an agenda of the Board pursuant to Ordinance No. 14-65. Implementation of this ordinance shall take place upon completion of the requirements of section 2-81.1.



Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Shanika A. Graves

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Chairwoman Audrey M. Edmonson
Commissioner Eileen Higgins
Commissioner Barbara J. Jordan
Senator Javier D. Souto
Commissioner Xavier L. Suarez